it on fire; in *Joliet* v. *Harwood,* 86 Ill. 110, where it was necessary to employ blasting in the construction of a sewer, the work is easily seen to be "inherently dangerous." It is questionable whether the work involved in this case was sufficiently "inherently dangerous" to justify placing this case within the operation of the exceptions and thus relieve the independent contractor from his own carelessness. It would rather seem that the only danger to be apprehended was, in the words of the Judge, in *Engle* v. *Eureka Club,* 137 N. Y. 100, "in doing the work carelessly or unskillfully."

MECHANIC'S LIEN—EXEMPTION OF HOMESTEAD.—The defendant, Vance, entered into a contract for the construction of a dwelling upon certain land owned by her. The plaintiff furnished materials to the contractor which were used in the improvement. The plaintiff claimed a lien as against the homestead right of the defendant under the mechanic's lien law, which expressly made a homestead liable to a mechanic's lien. *Held,* that under the constitutional provision authorizing the legislature to provide for a homestead, exempt from execution, the legislature had no power to render the homestead subject to a mechanic's lien, and therefore the mechanic's lien law in this respect was unconstitutional and void. *Volker-Scowcroft Lumber Co.* v. *Vance et al.* (1907), — Utah —, 88 Pac. Rep. 896.

This case for the first time passes upon that section of the mechanic's lien act of 1898 in regard to the liability of a homestead, and now settles the status of the homestead under that act. The case is undoubtedly correct and in accord with the authorities. *Tuttle* v. *Strout,* 7 Minn. 465 (Gil. 374), 82 Am. Dec. 108; *Cogel* v. *Mickow,* 11 Minn. 475 (Gil. 354); *Coleman* v. *Ballandi,* 22 Minn. 147; *Cummings* v. *Bloodworth,* 87 N. C. 83; *Jossman* v. *Rice,* 121 Mich. 270, 80 N. W. 25, 80 Am. St. Rep. 493; *Donaldson* v. *Voltz,* 19 W. Va. 156; *Fallihee* v. *Wittmayer,* 9 S. D. 479, 70 N. W. 642; *Sampson* v. *Williamson,* 6 Tex. 102, 55 Am. Dec. 762; *Moran* v. *Clark,* 30 W. Va. 358, 4 S. E. 303, 8 Am. St. Rep. 66; *Lanahan* v. *Sears,* 102 U. S. 318, 26 L. Ed. 180. Many of the states make homesteads subject to mechanic's lien by constitutional provision.

MUNICIPAL CORPORATIONS—PATENTED PAVEMENT—COMPETITION.—The complainant, as tax payer of defendant city, filed a bill to enjoin the letting of a contract for the pavement of a street and the levy of a special assessment for the payment of same, on the ground that the statute allowed contracts for public improvements to be let only after competitive bidding, and then to the lowest bidder, whereas in this case the council had directed that the paving should be done with Warren Bros.' Bitulithic Pavement, a pavement made under patents in the control of one firm. *Held,* that since Warren Bros. had fixed a flat rate at which they would sell the material to whomsoever the contract should be let, the statutory provision did not prevent the specification of such material even though that firm had a monopoly upon its production. The bill was dismissed. *Saunders* v. *Iowa City et al.* (1907), — Ia. —, 111 N. W. Rep. 529.

By this decision the court of one more state has declared its position upon

this much mooted question. There is, however, a distinguishing feature in the facts of the principal case, for Iowa has a statute authorizing the city council to designate the kind of material to be used. Probably the decision would have been the same without that provision, as the court approves the opinion of JUDGE COOLEY in *Hobart* v. *Detroit*, 17 Mich. 245, 97 Am. Dec. 185. See 4 MICH. LAW REV. 78, and 5 id. 484, wherein the cases on the subject are classified.

NAVIGABLE WATERS—RIPARIAN RIGHTS—WHARFING OUT.—Plaintiffs owned lands under navigable water, tracing title from a royal grant. Defendants, owning the upland bounded by high-water mark, built a pier which extended over the water and was supported by piles driven into plaintiffs' land. It was conceded that the pier in itself was unobjectionable. *Held*, the owner of upland has the right to build a pier to gain access to adjacent navigable water, although it extends over lands under water, the fee to which is in a town. *Trustees, etc., of Town of Brookhaven et al.* v. *Smith et al.* (1907), — N. Y. —, 80 N. E. Rep. 665.

Three justices joined in a dissenting opinion in the above case, which revives the interesting discussion concerning the rights of an owner of upland bordering on navigable waters in the United States. Under the English common-law as adopted in the several states, a riparian owner on navigable water had a mere right of access. A dock or pier built over the water would, if it obstructed the public right of navigation, constitute a nuisance; and even if it were unobjectionable in itself, it was an invasion of the sovereign's private right and liable to seizure as a purpresture. GOULD, WATERS, § 167; *Shively* v. *Bowlby*, 152 U. S. 1. This doctrine controls in this country except in those states in which it has been modified by legislation or common usage. *Shively* v. *Bowlby*, 152 U. S. 1; *Weber* v. *Harbor Commissioners*, 18 Wall. 57. In New York, many of the cases are directly opposed to each other. That a riparian owner has not such a right to wharf out, that compensation is due him if communication between his upland and the water is destroyed, see *Gould* v. *Hudson River R. R. Co.*, 6 N. Y. 522; *Lansing* v. *Smith*, 8 Cow. (N. Y.) 146; *People* v. *Vanderbilt*, 26 N. Y. 287; *contra, Hedges* v. *West Shore R. R. Co.*, 80 Hun. (N. Y.) 310; *Rumsey* v. *N. Y. & N. E. R. R. Co.*, 133 N. Y. 79; *Matter of City of New York*, 168 N. Y. 134. In view of the great diversity of these decisions and others based upon them, it would be difficult to say that a usage had been established in New York, strong enough to controvert the common-law. The law regarding riparian rights in land bordering on tide waters applies equally to lands on the Great Lakes. *Cobb* v. *Commissioners of Lincoln Park*, 202 Ill. 427. The United States Supreme Court and the courts of Minnesota and Wisconsin have clearly recognized the right to wharf into navigable water. *Yates* v. *Milwaukee*, 10 Wall. 497; *Illinois Central R. R. Co.* v. *Illinois*, 146 U. S. 387; *Carli* v. *Stillwater St. R. R. & Transfer Co.*, 28 Minn. 373; *Lawson* v. *Furlong*, 50 Wis. 681. But if the right is destroyed in the exercise of the power of Congress to control navigation, no compensation need be made. *Scranton* v. *Wheeler*, 179 U. S. 141, and cases there